

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AUSTIN A. SAFRANEK,

Plaintiff,

v.

HON. CHRISTINE E. WORMUTH, in her
official capacity as Secretary of the Army and
LTG STEVEN W. GILLAND, in his official
capacity as Superintendent of the United States
Military Academy at West Point,

Defendants.

23 Civ. 5985 (PMH) (JCM)

STIPULATION AND ORDER OF VOLUNTARY REMAND

WHEREAS, on July 12, 2023, Plaintiff Austin A. Safranek (“Plaintiff”) filed a complaint (the “Complaint,” ECF No.1) commencing the above-captioned action (the “Action”) against Defendants Christine E. Wormuth, in her official capacity as Secretary of the Army, and Lt. Gen. Steven W. Gilland, in his official capacity as Superintendent of the U.S. Military Academy at West Point (“Defendants”), pursuant to the Administrative Procedure Act, 5 U.S.C. §§ 701, *et seq.*

WHEREAS, in this Action, Plaintiff seeks judicial review of a decision by the Army Board for Correction of Military Records (“ABCMR”) denying his application for correction of military records, and he requests a remand of the matter back to the ABCMR with instructions to consider and issue a reasoned and substantive determination with respect to Plaintiff’s claims in his Complaint; and

WHEREAS, the parties agree that voluntary remand of this matter to the ABCMR and a stay of proceedings in this Action is warranted to allow the ABCMR to review and reconsider Plaintiff’s request to correct his military records and other relief;

IT IS HEREBY STIPULATED AND AGREED by and between the parties, through their respective counsel, that:

1. This matter will be voluntarily remanded to the ABCMR, which will review and reconsider Plaintiff's request to correct his military records and other requested relief.

2. On remand, the ABCMR will review and reconsider the Claims raised by Plaintiff in his Complaint, including those issues specifically set forth in his First Claim at Paragraphs 102 through 117 of the Complaint.

3. Within 180 days after this Stipulation and Order is so-ordered by the Court, the ABCMR will render its new decision, including an explanation for the rationale for its decision with respect to each of the issues raised by Plaintiff in his First Claim. The parties may extend this deadline by agreement, subject to approval of the Court.

4. Within 30 days after the ABCMR provides Plaintiff, by its counsel, its new decision, the parties will file a joint status report providing their recommendations to the Court for how this Action should proceed.

5. This Action will be stayed until such time as the Court orders otherwise.

6. Nothing herein shall affect Plaintiff's right to seek attorneys' fees under the Equal Access to Justice Act, 28 U.S.C. § 2412, in this Action.

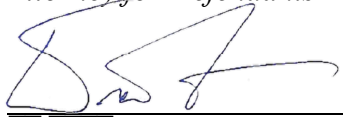
Dated: New York, New York
September 14, 2023

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Dated: New York, New York
September 14, 2023

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UPON READING AND CONSIDERING THE FOREGOING, AND FOR GOOD CAUSE
SHOWN, IT IS

SO ORDERED:

HON. PHILIP M. HALPERN, U.S.D.J.